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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,868

03/07/2007

Takashi Mori

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EXAMINER

WILLIAMS, LELA

ART UNIT

PAPER NUMBER

1787

NOTIFICATION DATE

DELIVERY MODE

05/06/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PPROCESSING@SUGHRUE.COM  
USPTO@SUGHRUE.COM

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,868	<b>Applicant(s)</b> MORI ET AL.	
	<b>Examiner</b> LELA S. WILLIAMS	<b>Art Unit</b> 1787	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 1787

### **DETAILED ACTION**

1. Applicant's arguments filed January 28, 2010 have been fully considered. The amendment necessitated the new grounds of rejections set forth below and therefore, the following action is final.

#### ***Information Disclosure Statement***

2. Examiner inadvertently lined through EP Application No. 118033 on the Information Disclosure Statement filed July 1, 2009. Accordingly, the reference has been considered as indicated on PTO-892.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 3, and 5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. While there is support in the specification (page 8, line 26- page 9, line 5) to recite specific esters of ascorbic acid, there does not appear to be support to broadly recite "ascorbic acid, isoascorbic acid, or dihydroascorbic acid...or esters thereof" as recited in claim 1.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**6. Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamai et al. JP 2941416.**

Hamai et al. discloses a method for deodorizing unpleasant smells, such as hydrogen sulfide, which is caused during the process of treating foodstuffs, specifically fish meat, with high temperature and elevated pressure (page 2). The reference adds an oxidizing agent, of which ascorbic acid is listed (machine translation page 4). Hamai also teaches the addition of "auxiliary materials" and seasonings to the fish product before the fish material is treated by an extruder at high temperature (70-200°C) under elevated pressure (machine translation page 3, line 6). After the fish material is treated by ascorbic acid, secondary materials, and extruder, it is frozen (machine translation page 3, last paragraph and page 4, line 10).

***Response to Amendment***

7. Claims 1, 3, and 5 are pending. Claims 2, 4, and 6-15 have been cancelled.

8. Applicant's amendment to claims 1-9 filed on January 28, 2010 is sufficient to overcome the 35 USC § 112, first and second paragraph rejections of the previous action. Therefore the rejection is withdrawn.

***Response to Arguments***

Applicant's arguments, pertaining to Hamai et al. JP 2941416, filed January 28, 2010 have been fully considered but they are not persuasive. Applicant argues "Hamai does not teach adding the ascorbic acid analogue to the food material prior to treating at the heat and pressure treatment or obtaining a food material." (page 8). It is noted that present claim comprises the addition of ascorbic acid; however the present claim does not cite a required order to which the acid is to be added. Given that Hamai discloses a method for deodorizing unpleasant smells, such as hydrogen sulfide, which is caused during the process of treating foodstuffs, specifically fish meat, with high temperature and elevated pressure (page 2), and adds an oxidizing agent, of which ascorbic acid is listed (machine translation page 4), and also teaches the addition of "auxiliary materials" and seasonings to the fish product before the fish material is treated by an extruder at high temperature (70-200°C) under elevated pressure (machine translation page 3, line 6), and after the fish material is treated by ascorbic acid, secondary materials, and extruder, it is frozen (machine translation page 3, last paragraph and page 4, line 10); the reference thereby discloses the present claims. Further, it is noted that Hamai's method discloses "foodstuffs produced" (page 2), which inherently discloses "obtaining a food material".

Art Unit: 1787

9. Applicant's arguments, filed January 28, 2010, with respect to claims 1 and 2 rejected under 35 USC § 102(b) as being anticipated by Madono et al. JP 10-042841, have been fully considered and are persuasive. Therefore, the rejection of claims 1 and 2 under 35 USC § 102(b) over Madono has been withdrawn.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LELA S. WILLIAMS whose telephone number is (571)270-1126. The examiner can normally be reached on Monday to Thursday from 7:30am-5pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1787

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LELA S. WILLIAMS  
Examiner, Art Unit 1787

/L. S. W. /

/Callie E. Shosho/  
Supervisory Patent Examiner, Art Unit 1787